

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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May 12, 1988

TO COUNTY ASSESSORS:

No. 88/36

EXEMPTION FOR AIRCRAFT OF HISTORICAL SIGNIFICANCE

Qualifying aircraft of historical significance are exempted from property tax pursuant to Revenue and Taxation Code Section 220.5 (see letter to assessors 87/67 issued September 4, 1987).

As enacted, Section 220.5 lacks precise standards and definitions. Therefore, terms in the section, such as "general transportation" and "display to the public," are subject to varying interpretation. Lacking precise statutory definition, assessors have the latitude to place any reasonable interpretation they deem appropriate to undefined terms contained in Section 220.5.

In the interest of ensuring equitable application of the exemption, uniform from county to county, assessors have asked the Board several interpretive questions. The questions and proposed answers as illustrated below were discussed with the Assessors' Association Aircraft Subcommittee members. We believe the questions and answers reflect a reasonable interpretation of Section 220.5 which, if applied, will provide uniform and equalized administration of this exemption statewide.

A. Available for Display to the Public

QUESTION 1: What constitutes "available for display to the public"?

ANSWER: "Available for display to the public" means actual display or documented willingness to display at either (a) an organized airshow, (b) a museum, or (c) a special designated area set aside for historical aircraft open to the public.

To qualify as available for display to the public under any situation, other than (a), (b), or (c) above, an individual must document that an aircraft is displayed in such a manner that the general public is aware that public viewing is clearly invited, and there are reasonable accommodations to allow public viewing of the aircraft.

To qualify as available for display under any situation also means that the general public must be made aware of, and there must be reasonable viewing hours.

QUESTION 2: Does notifying the public that the aircraft will be available for display at the owner's home, by appointment only, qualify as "public display"?

ANSWER: No, making the aircraft available by appointment only is not a clear invitation for viewing issued to the general public. Also, an owner's home site will lack reasonable accommodations for public viewing in most instances.

QUESTION 3: Is an aircraft stored on private property, but visible from a state highway, on "public display"?

ANSWER: No, the plane must be displayed in a place where reasonable, deliberate public viewing can be accommodated during reasonable viewing hours.

QUESTION 4: Please explain the significance of the word "available" as used in the statute.

ANSWER: As used in this statute, "available" means that if an aircraft was formally scheduled for display at a qualifying display site and the display was cancelled (rain out, etc.), the date would count as a day available for display.

QUESTION 5: Must display be in California?

ANSWER: No, there is no requirement that the aircraft display site must be in California.

QUESTION 6: Must the applicant list at least twelve future dates to qualify for the exemption under prospective treatment?

ANSWER: No, for anticipated display in the initial qualifying year, the applicant need only certify that the aircraft will be made available for display at least 12 days in order to qualify for the exemption. The assessor can request additional information at a later date to verify compliance. If, at a later date, it is determined that the owner did not meet exemption qualifications, an escape can be issued.

QUESTION 7: Can the same display dates be used to qualify an owner for more than one year?

ANSWER: Only in one instance, which could occur in the first year an aircraft qualifies for the exemption, as illustrated in the following example: Display dates occurring after March 1, 1987 (e.g., March-June 1987) could be used for the 1987 lien date and again for the 1988 lien date. For 1988 and

following years the aircraft would not qualify for prospective consideration as it will no longer qualify as "first made available for display."

B. Aircraft Use

QUESTION 8: What constitutes "commercial purpose"?

ANSWER: Conveyance of passengers or goods for any business reason or use of the aircraft for any revenue-producing activity would constitute commercial purpose.

QUESTION 9: If an aircraft is depreciated as business property, or expenses are written off as business expenses, is the aircraft being used for commercial purposes?

ANSWER: Yes, owner recognition of business related aircraft use is factual documentation that the aircraft is used for commercial purposes.

QUESTION 10: What constitutes use as "general transportation"?

ANSWER: Transportation means conveyance of or travel from one place to another. Use of an aircraft for "general transportation" means noncommercial flight of the aircraft from one place to another, unless flight of the aircraft is for the sole purpose of transferring the aircraft from one location to another rather than the occupant.

QUESTION 11: Does recreation flying constitute general transportation?

ANSWER: To constitute general transportation there must be flight from one place to another. Recreation flying or maintenance related flying would not constitute general transportation if the flight originates and terminates at the same place with no intervening stop, or only a limited interim stop, at another place.

C. Historical Aircraft Definition

QUESTION 12: How much modification must take place before an aircraft meets the "historical" definition under the fewer than five test?

ANSWER: For purposes of the fewer than five rule, the plane's original make and model shall be the determining factors regardless of the amount of modification to a specific aircraft.

D. Program Administration

QUESTION 13: Is the 35 dollar fee, charged and collected by the assessor upon the initial application for exemption of a specific aircraft, a one-time fee per county regardless of a later break in county situs?

ANSWER: Yes, if an owner removes an aircraft from the taxing jurisdiction of a county and then returns the aircraft at a subsequent lien date, the fee is not required for a subsequent application filed for the same aircraft.

QUESTION 14: Is the fee per applicant or per aircraft?

ANSWER: A separate application and fee is required for each aircraft. If an individual owns multiple potentially qualifying aircraft, then separate applications are required for each of the aircraft, with a fee charged for each application.

QUESTION 15: If an aircraft is moved to another county, and an exemption application is filed in the second county, should the second county charge the application fee?

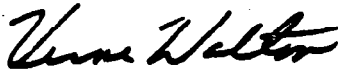
ANSWER: Yes, the application filed in the second county is the initial application in that county.

QUESTION 16: How long does an aircraft owner have to file for the exemption?

ANSWER: At the present an applicant can file for exemption at any time within four years after the making of the aircraft assessment. Proposed legislation would set forth a filing period of shorter duration for future assessment years.

Please contact the Business Property Technical Services Unit or the Exemption Unit at (916) 445-4982 if you have additional questions or comments regarding this exemption.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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